

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ABBVIE INC. and ABBOTT RESPIRATORY)	
LLC,)	
)	
Plaintiffs,)	
)	C.A. No. 10-112 (SLR)(MPT)
v.)	
)	(CONSOLIDATED)
SUN PHARMACEUTICAL INDUSTRIES)	
LTD. and SUN PHARMA GLOBAL FZE,)	
)	
Defendants.)	

STIPULATION OF INFRINGEMENT

WHEREAS Plaintiff AbbVie Inc. is the holder of New Drug Application (“NDA”) No. 20-0381 by which the FDA granted approval for 500 mg, 750 mg, and 1000 mg strength niacin extended-release tablets under the brand name NIASPAN[®];

WHEREAS Defendant Sun Pharma Global (“Sun FZE”), has filed Abbreviated New Drug Application Nos. 20-0484 and 20-1273 (“the Sun ANDAs”) for approval to market niacin extended release tablets that are generic versions of the 500 mg, 750 mg, and 1000 mg strength tablets of AbbVie’s NIASPAN[®] (“the 500 mg, 750 mg, and 1000 mg Sun Products”);

WHEREAS Plaintiffs AbbVie and Abbott Respiratory LLC (collectively, “Abbott”) have asserted in this patent infringement suit that the filing of the Sun ANDAs infringes certain claims of, *inter alia*, U.S. Patent Nos. 6,080,428 (“the ’428 patent”) and 6,469,035 (“the ’035 patent”);

NOW THEREFORE, the parties stipulate and agree as follows:

1. The commercial manufacture, use, offering for sale, or sale of the 500 mg, 750 mg, and 1000 mg Sun Products, in accordance with the Sun ANDAs, would infringe claims 1, 5, 6, 8, and 9 of the ’428 patent, unless those claims are proven invalid in this case (or invalid or unenforceable in another case) pursuant to a final and nonappealable decision;

2. The commercial manufacture, use, offering for sale, or sale of the 500 mg, 750 mg, and 1000 mg Sun Products, in accordance with the Sun ANDAs, would infringe claims 2-5 and 11-16 of the '035 patent, unless those claims are proven invalid in this case (or invalid or unenforceable in another case) pursuant to a final and nonappealable decision; and

3. This stipulation is in regard to the above-listed claims only, and for purposes of the above captioned litigation only, and has no bearing on the patent claims of any other patent belonging to Abbott or any future claims that may arise from any material amendment to the Sun ANDAs or any future ANDAs. This stipulation is not evidence of the merits of any claim of infringement or invalidity.

MORRIS, NICHOLS, ARSHT & TUNNELL
LLP

FLASTER/GREENBERG P.C.

/s/ Derek J. Fahnestock

Mary B. Graham (#2256)
Derek J. Fahnestock (#4705)
1201 N. Market Street
P.O. Box 1347
Wilmington, DE 19899-1347
(302) 658-9200
mgraham@mnat.com
dfahnestock@mnat.com

*Attorneys for AbbVie Inc.
and Abbott Respiratory LLC*

/s/ Nella M. Bloom

Nella M. Bloom (#5430)
Jeffrey Cohen
1000 North West Street
Suite 1200
Wilmington, DE 19801
(302) 351-1910
nella.bloom@flastergreenberg.com
jeffrey.cohen@flastergreenberg.com

*Attorneys for Sun Pharmaceutical Industries,
Ltd. and Sun Pharma Global FZE*

OF COUNSEL:

William F. Lee
Vinita Ferrera
Kevin Prussia
WILMER CUTLER PICKERING
HALE AND DORR LLP
60 State Street
Boston, MA 02109
(617) 526-6000

OF COUNSEL:

Robert B. Breisblatt
Brian J. Sodikoff
Stephen P. Benson
Jeremy C. Daniel
Suresh B. Pillai
KATTEN MUCHIN ROSENMAN LLP
525 W. Monroe Street
Chicago, IL 60661
(312) 902-5200

Andrea Jeffries
WILMER CUTLER PICKERING
HALE AND DORR LLP
350 South Grand Avenue, Suite 2100
Los Angeles, CA 90071
(213) 443-5300

James L. Quarles III
Heath Brooks
WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Avenue, NW
Washington, DC 20006
(202) 663-6000

December 7, 2012

SO ORDERED, this _____ day of _____, 2012

United States District Judge

6817842